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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022/2023

UCP4622 – CRIMINAL PROCEDURE II

(All Sections / Groups)

7 JULY 2023

Reading Time : 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time: 9.15 a.m. – 12.15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 4 pages with 5 Questions only.
3. Attempt **ALL** questions in **PART A** and any one questions in **PART B**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in **CLEAN AND ORIGINAL COPY** of the following statutes into the exam venue:
i. Criminal Procedure Code ii. Penal Code
“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

PART B:

Instruction: Attempt **ONE** question only.

QUESTION 4A

- (a) Achyut a Bangladesh National was charged in the Session Court for an offence of robbery under Section 392 of the Penal Code committed on 13th May 2023 in Ayer Keroh, Melaka. Achyut was unrepresented. When the charge against him was read by an interpreter in Malay, he nodded. The Prosecutor then proceeded to adduce the brief facts of the case which were read in Malay to Achyut and then he nodded again.

The Sessions Judge accepted his plea of guilty and proceeded to record the exhibits tendered by the Prosecutor. During mitigation Achyut said "saya tak tau, 13th May 2023 ada sama Klang bukan Melaka. Takda sana tempat".

The Sessions Judge ignored this statement of Achyut as an afterthought and proceeded to sentence Achyut.

Advise Achyut.

(20 marks)

- (b) Analyse the law when a prosecution opens its case at the High Court.

(5 marks)

(Total:25 Marks)

Continued...

OR

QUESTION 4B

- (a) *"It is not necessary for the defence to prove anything and all that is necessary for the accused to do is to give an explanation that is reasonable and throws a reasonable doubt on the case made out for the prosecution. It cannot be a fanciful or whimsical or imaginary doubt, and in considering the question as to whether a reasonable doubt has been raised, the evidence adduced by and the case for the defence must be viewed in at least some amount of light, not necessarily bright sunlight, but certainly not against the dark shadows of the night. I do not in all the circumstances find the explanation given by the three accused reasonable or as casting any reasonable doubt on the case for the prosecution if indeed according to their evidence there was nothing to conceal and everything was open. Having regard to the evidence as a whole, both oral and documentary, the explanation given by the three accused is not only unreasonable but also inconsistent with their innocence."*

[excerpt in PP v Datuk Haji Harun bin Haji Idris [1977] 1 MLJ 180, Abdoolcader J]

Elucidate the scope of the procedure at the conclusion of the trial at the High Court.
(18 marks)

- (b) Ascertain the effects of the Prosecution failing to call a material witness at the Session's Court.
(7 marks)

(Total:25 Marks)

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